

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RUDOLPH A. BUCKLEY, M.D.,

Plaintiff,

-v-

6:10-CV-974

SLOCUM DICKSON MEDICAL GROUP,
PLLC as successor in interest to Slocum
Dickson Medical Group, P.C.,

Defendant.

APPEARANCES:

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DAVID N. HURD
United States District Judge

OF COUNSEL:

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ELLEN K. EAGEN, ESQ.
ANNE B. DOTZLER, ESQ.
JUDITH M. SAYLES, ESQ.

ANTHONY J. PIAZZA, ESQ.

ORDER

On April 23, 2013, a Memorandum–Decision and Order ("MDO") was filed denying in part and granting in part plaintiff Rudolph A. Buckley's motion for summary judgment.

Buckley v. Slocum Dickson Med. Grp., PLLC, __ F. Supp. 2d __, 2013 WL 1751005

(N.D.N.Y. 2013). Plaintiff was granted summary judgment and awarded \$615,855.00 on his First Cause of Action, but the Second and Third Causes of Action were dismissed. Id. at *8. Defendant's First and Sixth Counterclaims were dismissed sua sponte, but the Second, Third, Fourth, and Fifth Counterclaims remained for trial. Id. A bench trial on the four remaining counterclaims was scheduled to commence on July 23, 2013.

On July 17, 2013, a joint stipulation and order was filed dismissing the Second, Third, Fourth, and Fifth Counterclaims. ECF Nos. 31, 32. An Order was filed on July 19, 2013, granting plaintiff leave to file an application for attorneys' fees. ECF No. 37. Plaintiff has now filed such an application. ECF No. 38. Defendant has responded in opposition. ECF No. 39. The motion was considered on submit.

The majority of defendant's opposition paperwork speaks to the merits of the underlying claims, not the computation of attorneys' fees, and will therefore be stricken. Conversely, plaintiff does not address the role its employee, Edward Sinker, who has been permanently disbarred, played in this litigation and how that factors into the appropriate measure of attorneys' fees. In fact, plaintiff has failed to reply to defendant's assertion that attorneys' fees should be limited to \$47,723.00.

Therefore, it is

ORDERED that

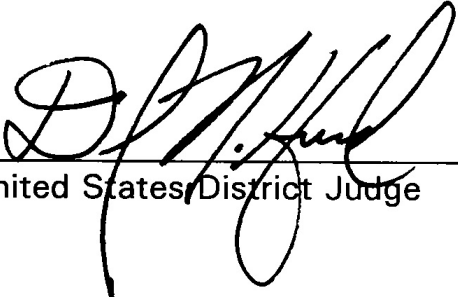
1. The affidavit of Stephen D. Eadline, M.D., (ECF No. 39-1) is STRICKEN in its entirety;
2. Paragraph sixteen (16) of the declaration of Ellen Kimatian Eagen (ECF No. 39-3) is adopted, but the remainder of that declaration is STRICKEN;
3. Plaintiff's application for attorneys' fees (ECF No. 38) is GRANTED;

4. Plaintiff is awarded attorneys' fees in the sum of \$47,723.00;

5. Interest calculated at the statutory rate set forth in 28 U.S.C. § 1961 based upon the following amounts and dates: \$215,549.25 from August 4, 2010; \$215,549.25 from August 4, 2011; and \$184,756.50 from August 4, 2012, results in the sum of \$2877.54; and

6. The Clerk of the Court is directed to enter judgment in favor of plaintiff Rudolph A. Buckley and against defendant Slocum Dickson Medical Group, PLLC, in the sum of \$615,855.00 plus interest in the sum of \$2877.54 plus \$47,723.00 in attorneys' fees, for the total sum of \$666,455.54.

IT IS SO ORDERED.



United States District Judge

Dated: September 5, 2013
Utica, New York.